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HAIN ZVI MELMAN AIR MAIL 3 HAGAI STREET KFAR-SABA, ISRAEL 44335

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OFFICE OF PETITIONS

In re Application of

Haim Zyi Melman

Application No. 09/492,863 ON PETITION

Filed: January 27, 2000

For: APPARATUS AND METHOD FOR

RETRIEVAL OF DOCUMENTS

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2004, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 19, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 20, 2003. A Notice of Abandonment was mailed on March 9, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional

information. <u>See MPEP 711.03(c)(III)(C)</u> and (D). The instant petition lacks item (1).

As stated above, this application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final rejection of March 19, 2003, within the time period for reply. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and fee required by law), an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance; a Request for Continued Examination (RCE), along with the required fee and submission in accordance with 37 CFR 1.114, or the filing of a continuing application pursuant to the provisions of 37 CFR 1.53(b). Since the amendment submitted does not prima facie place the application in condition for allowance (see attached Advisory Action), petitioner must submit the reply required to continue prosecution in order to effect revival of the instant application.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

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Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner for Patent Examination Policy

ATTACHMENT: Copy of Examiner's Advisory Action